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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/586,323 | 06/12/2008 | Robert D. Smets | 307-67674-04 | 1837 |
| 24197 7590 09/30/2010 KLARQUIST SPARKMAN, LLP 121 SW SALMON STREET SUITE 1600 PORTLAND, OR 97204 | | | | |
| EXAMINER ADAMS, GREGORY W | | | | |
| ART UNIT | | PAPER NUMBER | | |
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| 09/30/2010 | | ELECTRONIC | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/586,323

Applicant(s)

SMETS ET AL.

Examiner

GREGORY W. ADAMS

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-12 & 14-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smets (US 6,079,939) (previously cited) in view of Heide et al. (AKA Pulver Willis Clark et al.) (US 3,521,763) (previously cited) and Jenkner (US 4,966,271) (previously cited).

With respect to claims 1-3, 7-8 & 11-12, Smets '939 clearly discloses a pallet handling system including a pallet restraining device 30 and further discloses tipping pallets forward during unstacking. Heide discloses a pallet restraining device 250 a conveyor 235. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Smets '939 to include

Heide's pallet restraining device and conveyor to achieve the predictable result of unstacking articles from a stack articles which are to be individually loaded. Jenkner discloses a restraining device 22, 22a which functions to block a tipping article moving in a forward direction away from an upright position. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Smets '939 to include a pallet restraining device which blocks a forward rotational direction away from an upright position, as per the teachings of Jenkner, which increases stacking time because a lifting table remains at a constant height and does not need adjustment such as raising or lowering as other stackers are known to require.

With respect to claims 4-6, 9-10 & 14-24, Jenkner clearly discloses a pallet restraining device configured to block (indicated generally as 22) and a weight (indicated generally as 22'). Although not explicitly disclosed as a "counter" weight, article 22' clearly as mass and is at an opposite end of arm 23 from block 22. Thus, article 22' will function as a counterweight during arm 23 pivoting. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Smets to include a counterweight, as per the teachings of Jenkner, for simple, quick transfer of a pallet from vertical to horizontal positions.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smets in view of Heide et al. and Jenkner and further in view of Roth et al. (US 3,534,872). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Smets to include a second curved

conveyor 75 following a first conveyor 74, 62, as per the teachings of Roth, as is well known in unstacking operations where there is a variations in sizes requires curved conveyors.

Response to Arguments

Applicant's arguments, see page 7 of 7, filed Sept. 23, 2010, with respect to the Lisec reference have been fully considered and are persuasive. The previous non-final rejection has been withdrawn. However, Jenkner discloses identical subject matter and as it was of record as of the mailing date of the last office action the above rejection now includes respective references. The examiner reserves the right to re-introduce the Lisec reference pending review of international publications.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GREGORY W. ADAMS whose telephone number is (571)272-8101. The examiner can normally be reached on M-Th, 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on (571) 272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gregory W Adams/
Primary Examiner, Art Unit 3652